

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 129 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE R.BALIA. and
MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

1 to 5: No

COMMISSIONER OF INCOME-TAX

Versus

VIMALBHAI RAMANLAL FAMILY TRUST

Appearance:

MR BB NAIK for MR MANISH R BHATT for Petitioner
SERVED BY RPAD - (N) for Respondent No. 1

CORAM : MR.JUSTICE R.BALIA. and
MR.JUSTICE A.R.DAVE

Date of decision: 11/11/98

ORAL JUDGEMENT (per R. Balia, J.)

The following question of law has been referred to this court for decision by the Income Tax Appellate Tribunal, Ahmedabad Bench 'A', arising out of its appellate order for Assessment Year 1978-79.

"Whether, on the facts and in the circumstances

of the case, the Tribunal was right in law in holding that the shares of beneficiaries were determinate?"

2. The learned counsel for the Revenue candidly stated that the facts of the case are similar to the one that arose in CIT v. Tanvi Sajani Family Trust reported in 209 ITR 497 and the answer to the question is governed by the decision therein in favour of the assessee in which, interpreting a similar trust deed, it was held that the shares of the beneficiaries were determinate and there was obligation on the trustees to distribute the income of the trust.

3. Following the aforesaid decision, we answer the question referred to above in affirmative, that is to say, in favour of the assessee and against the Revenue. There shall be no order as to costs.
